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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Martin J. Walsh,
Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

VH Harvesting, an Arizona LLC; T & K
Feeds, Inc., an Arizona corporation; Preston
Van Hofwegen, an individual.

Defendants.

Case No. 2:22-cv-01805-PHX-DJH

**Consent Judgment as to Defendant
T & K Feeds, Inc.**

1 Plaintiff Martin J. Walsh, Secretary of Labor, United States Department of Labor
 2 (the “Secretary”), and Defendant T & K Feeds, Inc., an Arizona corporation (“Defendant”)
 3 have agreed to resolve the matters in controversy in this civil action and consent to the
 4 entry of this Consent Judgment as follows:

5 **I. STATEMENT BY THE PARTIES**

6 A. The Secretary filed a complaint alleging Defendants violated the H-2A
 7 Program under Section 218 of the Immigration and Nationality Act (“INA”)¹ as amended
 8 by the Immigration and Reform Control Act of 1986 (“IRCA”) and their Regulations at
 9 20 C.F.R. Part 655 and 29 C.F.R. Part 501 (“H-2A Implementing Regulations”) (hereafter,
 10 “Complaint”). Defendant has appeared in this action and has retained counsel and filed an
 11 answer with affirmative defenses.

12 B. Defendant agrees that the Court has jurisdiction over the parties and the
 13 subject matter of this civil action, and that venue lies in the United States District Court
 14 of Arizona.

15 C. On October 20, 2022, Plaintiff applied for a Temporary Restraining Order
 16 (“TRO”) and Preliminary Injunction seeking to enjoin Defendant from violating its
 17 obligations under the H-2A program.

18 D. On October 25, 2022, the Secretary and T & K stipulated to the entry of a
 19 preliminary injunction against T & K (Doc. 14), which the Court granted (Doc. 17).

20 E. Defendant agrees to resolve all allegations against them in the Complaint.

21 F. Defendant agrees to the entry of this Consent Judgment without contest.

22 G. Defendant acknowledges that Defendant and any individual, agent, or entity
 23 acting on their behalf or at their direction have been given, and in the future will be given
 24 notice of and an understanding of the provisions of this Consent Judgment.

25 H. In consideration of this Consent Judgment and to resolve this case, and in
 26 restitution and remediation:

27 _____
 28 ¹ All references made herein to the INA will be to its Section 218, 8 U.S.C. § 1188.

1 1. Defendant T & K Feeds agrees to pay \$32,411.08, which is
2 comprised of \$22,411.08 in back wages and \$10,000 in civil money penalties.

3 2. The parties agree that each party shall bear all fees, costs, and other
4 expenses incurred by such party in connection with any stage of this proceeding,
5 including, but not limited to, any costs referenced in the Equal Access to Justice
6 Act.

7 **II. PERMANENT INJUNCTION**

8 Therefore, upon motion of the attorneys for the Secretary, and for cause shown,

9 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that, pursuant to
10 8 U.S.C. § 1188(g)(2) and 29 C.F.R. §§ 501.16(b) & (c) that Defendant and their
11 officers, agents, servants, employees, successors and all persons in active concert or
12 participation with them are permanently enjoined and restrained from violating any
13 provisions of the INA and the H-2A Implementing Regulations, including but not
14 limited to 20 C.F.R. § 655.122(h)(4); 29 C.F.R. §§ 500.105, 500.120-.128; and 29
15 C.F.R. § 1910.142.

16 **III. JUDGMENT AND ORDER**

17 **IT IS FURTHER ORDERED AND ADJUDGED** that:

18 **JUDGMENT IS HEREBY ENTERED**, in favor of the Secretary and against T
19 & K Feeds for the total amount of \$32,411.08, which is comprised of \$22,411.08 in back
20 wages and \$10,000 in civil money penalties.

21 1. Defendant T & K Feeds shall satisfy the monetary terms of this
22 judgment upon paying \$32,411.08, which represents the total sum of the back
23 wages and civil money penalties assessed and finally determined or ordered by
24 the Secretary for this matter pursuant to authority granted in 29 C.F.R. §
25 501.16(a)(1);

26 2. Defendant shall make any payments required in this Consent
27 Judgment as follows:
28

1 a. On or before November 18, 2022, for workers number 1-9 on the
2 attached Exhibit A, by preparing a check in the amount of \$22,411.08
3 payable to co-defendant VH Harvesting, LLC and delivering it to VH
4 Harvesting, LLC for distribution to workers number 1-9.²

5 b. All payments of Civil Money Penalties shall be made by
6 December 19, 2022, using the “WHD Civil Money Penalty Payment Form
7 – Western Region” at <https://www.pay.gov/public/form/start/77743734>.
8 The payment shall reference Case Number 1972630.

9 3. Each party shall bear all fees, costs, and other expenses incurred by
10 such party in connection with any stage of this proceeding, including, but not
11 limited to, any costs referenced in the Equal Access to Justice Act; and

12 4. This Court shall retain jurisdiction of this action for purposes of
13 enforcing compliance with the terms of this Consent Judgment.

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16 IT IS SO ORDERED.

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18 Dated:

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22 HONORABLE DIANE J. HUMETEWA
23 UNITED STATES DISTRICT JUDGE
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27
28 ² The distribution of these amounts is governed by the Consent Judgment as to VH
Harvesting, LLC and Preston Van Hofwegen filed concurrently herewith.

1 For the Plaintiff:

2
3 MARC A. PILOTIN
4 Regional Solicitor

5 BORIS ORLOV
6 Counsel for Wage and Hour

7 VICTORIA YEE
8 Trial Attorney

9
10 s/ Charles Song
11 CHARLES SONG
12 Senior Trial Attorney

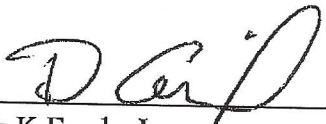
11/18/2022

DATE:

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14 *Attorneys for Plaintiff*
15 *Secretary of Labor*
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1 For Defendants:

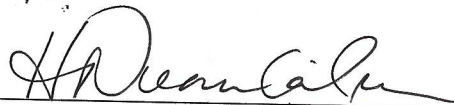
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3 The Defendants hereby consent to the entry of this Judgment and waive notice by the
4 Clerk of the Court.
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9 T & K Feeds, Inc.:

10 By: Dan Grief

11 Title: Controller

11-18-22
DATE:

12
13 

14 Heidi Nunn-Gilman, Esq.

15 Julie A. Pace, Esq.

16 Messner Reeves LLP

Attorneys for T&K Feeds Incorporated

11-18-22
DATE:

Exhibit A

	First Name	Last Name	Start Period	End Period	Back Wages VH	Back Wages T & K	Total Back Wages Due VH and T & K	T & K Payments 11/18/2022	VH Payments 11/18/2022	Total Payments 11/18/2022	VH Additional Payments Due by 12/19/2022
1	Jose Alfredo	Vargas Magana	3/4/2022	12/1/2022	\$5,256.00	\$4,694.93	\$9,950.93	\$4,694.93		\$4,694.93	\$5,256.00
2	Gerardo Jacobo	Zepeda Zepeda	3/4/2022	12/1/2022	\$9,722.24	\$4,634.35	\$14,356.59	\$4,634.35		\$4,634.35	\$9,722.24
3	Jose Domingo	Ponce Topete	3/4/2022	12/1/2022	\$18,572.08	\$405.90	\$18,977.98	\$405.90	\$ 2,765.11	\$3,171.01	\$15,806.97
4	Juan Manuel	Padilla Olivera	3/4/2022	12/1/2022	\$15,429.84	\$1,613.89	\$17,043.73	\$1,613.89	\$ 1,557.11	\$3,171.00	\$13,872.73
5	Juan Diego	Ramirez Penaloz	3/4/2022	12/1/2022	\$16,404.59	\$327.12	\$16,731.71	\$327.12	\$ 2,843.88	\$3,171.00	\$13,560.71
6	Juan Uvaldo	Lopez Landin	3/4/2022	12/1/2022	\$21,091.64	\$337.12	\$21,428.76	\$337.12	\$ 2,833.88	\$3,171.00	\$18,257.76
7	Miguel Gerardo	Cortes Fregozo	3/4/2022	12/1/2022	\$6,843.08	\$3,991.33	\$10,834.41	\$3,991.33	\$ 6,843.08	\$10,834.41	\$0.00
8	Antonio	Iraí Chavez Galve	3/4/2022	12/1/2022	\$9,918.16	\$4,159.29	\$14,077.45	\$4,159.29		\$4,159.29	\$9,918.16
9	Alan Arturo	Bueno Cardenas	3/4/2022	8/14/2022	\$5,658.64	\$2,247.15	\$7,905.79	\$2,247.15 to VH			\$7,905.79
10	Armando	Barriga Gonzalez	6/1/2022	8/4/2022	\$3,374.82		\$3,374.82				\$3,374.82
11	Carlos	Salas Remis	3/4/2022	5/18/2022	\$3,038.96		\$3,038.96				\$3,038.96
12	Dora	Galvez Alcaraz	3/4/2022	10/16/2022	\$7,681.20		\$7,681.20				\$7,681.20
13	Jairo Ivan	Barriga Rivera	6/1/2022	8/4/2022	\$4,129.74		\$4,129.74				\$4,129.74
14	Jesus	Ronquillo Salas	3/4/2022	5/18/2022	\$4,282.91		\$4,282.91				\$4,282.91
15	Jose Trinidad	Velasco Villa	3/4/2022	12/1/2022	\$20,226.47		\$20,226.47				\$20,226.47
16	Mario	Alvarado Navarr	3/4/2022	4/16/2022	\$3,820.32		\$3,820.32				\$3,820.32
17	Williams	Contreras Lopez	3/4/2022	4/16/2022	\$3,820.32		\$3,820.32				\$3,820.32
TOTAL					\$159,271.01	\$22,411.08	\$181,682.09	\$22,411.08	\$16,843.06	\$37,006.99	\$144,675.10